

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PADRAIC KEATING,

Petitioner,

-against-

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent.

MEMORANDUM AND ORDER
No. 03-CV-1286 (FB)

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Appearances:

For the Petitioner:

LAUREN G. KLEIN, ESQ.
P.O. Box 2042
Nantucket, MA 02584

VIVIAN SHEVITZ, ESQ.
150 Greenway Terrace
52W
Forest Hills, NY 11375

For the Respondent:

ANNE ELIZABETH GRADY, ESQ.
Richmond County District Attorney's Office
130 Stuyvesant Place
Staten Island, NY 10301

BLOCK, Senior District Judge:

On January 15, 2009, Magistrate Judge Pollak issued a Report and Recommendation (the “R&R”) recommending that the Court award petitioner’s counsel Lauren Klein and Vivian Shevitz \$23,561.00 in attorney’s fees under the Criminal Justice Act. *See* R&R at 10. The R&R also stated that failure to object within ten days would preclude appellate review. *See id.* at 10-11. All parties were notified by email of the R&R on January 16; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the

consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."'). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to award attorney's fees in accordance therewith.

SO ORDERED.

FREDERIC BLOCK
Senior United States District Judge

Brooklyn, NY
October 21, 2009